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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,643	10/27/2003	William McLain Reller	026296-000310US	4009
20350 7590 06/10/2010 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
HOAR, COLLEEN A				
ART UNIT		PAPER NUMBER		
3622				
MAIL DATE		DELIVERY MODE		
06/10/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/694,643

**Applicant(s)**

RELLER ET AL.

**Examiner**

Colleen Hoar

**Art Unit**

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/22)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/27/2010 has been entered.

### ***Status of Claims***

Claims 1-4 and 6-36 are now pending. Claim 5 was previously cancelled. Claims 1, 11, and 22 are amended. Claims 27-36 are new.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-36 rejected under 35 U.S.C. 102(e) as being unpatentable over Jha et al. (2005/0033641) hereinafter referred to as Jha.

Claims 1-4, 13-14, 16-21, 27-36 Jha discloses User initiates search with **keyword** (Fig. 1, step 104); **Select Advertisement(S) For Presentment To The Requester** Utilizing The Ad Parameters (Fig. 11; Fig. 19, step 1908); Advertiser profile/Keyword profile may refer to the keywords or phrases that may be specified by the advertiser, corresponding to the given advertisement. (Page 6, Para 108); Past search referral query may refer to a search referral query that a user may have used, prior to the current visit, to find and access a web page. (Page 10, Para 172); Inputs used by the ad targeting algorithm may include the following:... **One or more past search referral queries, if available, associated with the current visitor.** ...Advertiser bid price. Click-through rate (CTR) of a particular ad on a particular web page. Conversion Rate (CR) of a particular ad on a particular web page. ...[**productivity value**](Page 6, Para 81,84, 92, 93, 94); **Publisher profile/content profile/Term Collection may refer to a collection of words, and their frequencies, appearing in the given publisher web page.** [Examiner holds that the “given publisher web page” is a preexisting document that is requested by the user, analyzed for content, and used as a basis to select an ad. The “given publisher web page” (preexisting document) is then delivered to the user. The ad is also delivered to the user. Para 96-98]. In one embodiment, these words may be extracted from the document by using a parser specific to the formatting language used to format the document. Such as for example, an HTML parser may be used to parse an HTML page.

The effect of using a parser may be to exclude the formatting commands like HTML tags, and extract only the words that may be visible to a user visiting the page. **Further, the frequency of occurrence of these words may be weighted by several coefficients. These coefficients may include (i) IDF (Inverse Document Frequency), (ii) specific weights based on the part of the document where the word occurs e.g. higher weight if the word occurs in the paragraph heading than if the word occurs in the body of the paragraph.**(Page 6, Para 98). Jha teaches an ad targeting algorithm which is calculated using among other information publisher content information about keywords in a document including Inverse Document Frequency coefficients and specific weights based on the part of the document where the word occurs which examiner takes as a relevancy score and click through rates and conversion rates of a web page which serve as a productivity value. Ads are sorted, then selected based on this calculation.(Page 6, Para 85 and 98). This algorithm takes into account supplemental content sources (queries, categorizations, etc.) which Examiner takes as a decision matrix or process.

Claims 6-8, 10, Jha discloses User initiates search with **keyword** (Fig. 1, step 104); Filter based on **bid prices**; Sort ads using a combination of (a) Advertiser **bid price**, (b)CTR,(c) Conversion rate (Fig. 18, step 1804, 1816); Publisher profile/content profile/Term Collection may refer to a **collection of words**, and their frequencies, appearing in the given publisher web page. In one embodiment, these words may be extracted from the document by using a parser specific to the formatting language used

to format the document. Such as for example, an HTML parser may be used to parse an HTML page. The effect of using a parser may be to exclude the formatting commands like HTML tags, and extract only the words that may be visible to a user visiting the page. Further, the frequency of occurrence of these words may be weighted by several coefficients. These coefficients may include (i) IDF (Inverse Document Frequency), (ii) specific weights based on the part of the document where the word occurs e.g. higher weight if the word occurs in the paragraph heading than if the word occurs in the body of the paragraph.(page 6, Para 98).

Claim 9, Jha discloses In operation 1802, an initial set of **relevant** advertisement may be selected from the Advertisement database, using available information including search referral query, past search referral queries, publisher profile, and advertiser profile (Page 7, Para 118).[ parameters are evaluated].

Claim 11-12, Jha discloses Inverse Document Frequency (IDF) is used to weight the frequency of a particular word in a web page. It may be used to compute a web page's similarity to another web page, its relevance to a search query. Refer to the book "Mining the web: Discovering Knowledge from Hypertext Data" by Soumen Chakrabarti, for a discussion.(Page 10, Para 170); past search referral query (Page 8, Para 130); Past search referral query(Page 8, Para 130); Past search referral query may refer to a search referral query that a user may have used, prior to the current visit, to find and access a web page. [preexisting document] (Page 10, Para 172). The Advertiser profile

has a keyword profile corresponding to the given advertisement. (Page 6, Para 108).

Jha teaches an ad targeting algorithm which is a calculated using among other information publisher content information about keywords in a document including Inverse Document Frequency coefficients and specific weights based on the part of the document where the word occurs which examiner takes as a relevancy score and click through rates and conversion rates of a web page which serve as a productivity value. Ads are sorted, then selected based on this calculation.(Page 6, Para 81)

Claim 15, Jha discloses This invention allows advertisers and publishers to **set different bid prices and/or different pricing models for different types of visits**. (Page 8, Para 128); **Price bidding may be allowed** that is a function of the type of visit the current visit is. (page 17, Para 259).

Claim 22, 24 Jha discloses In operation 1818, the top N ads, from the sorted ad list from operation 1816, may be selected where N is the maximum number of ad(s) that may fit in the space provided on the publisher web page. If the number of available ads is less than N, then all the ads may be selected. (Page 7, Para 126); an advertiser may specify a different max cost-per-click (CPC) price for each of the following types of visits: (a) Search engine referral with search referral query; (b) Past search referral query; and (c) Visits that cannot be related to prior search referrals. (page 8, Para 128-131); Advertiser bid price may refer to the maximum price that an advertiser may be willing to pay. Depending on the pricing model, this may refer to the maximum price

each time the ad is shown ("per impression"), selected ("per click-through"), or converted into a customer ("per acquisition"), among other pricing models.(Page 9, Para 152).

In operation 104, the user may input search query into the location accessed in operation 102 (e.g., into the search box) and initiate a search. Exemplary ways of inputting search query include user clicking on a Hyperlink on a web site/web page that may already include a **pre-selected search query**.(Page 3, Para 41). In a further embodiment, information about **previous accesses to the web page may be collected and used to determine a context of the web page**. The context information about the web page may then be utilized in the selection of the one or more advertisements. As another option, the collected information about the previous accesses to the web page may include information about one or more search queries posed to a search engine that resulted in the selection of a link to the web page in the search results returned by the search engine.(Page 8, Para 139)

In one embodiment, the ad server may **select the advertisement(s) from a set of advertisement(s) stored in a local database**. Exemplary ways of selecting advertisement include requesting advertisement(s) from other computer(s), network(s), or remote database(s). In addition to selecting advertisement(s), the ad server may also dynamically construct, and/or request other computer(s) to dynamically construct on its behalf, advertisement(s), or portions of advertisement(s). The selection and/or construction of advertisement(s) may be based on **ad parameter values** sent by the ad script as part of the ad request 1002, and/or other information available to the ad



server.(Page 5, Para 67); ad position in list of ads,(Page 5, Para 76); **relevance** comes from **weighted coefficients**. These coefficients may include (i) IDF (Inverse Document Frequency), (ii) specific weights based on the part of the document where the word occurs e.g. higher weight if the word occurs in the paragraph heading that if the word occurs in the **body** of the paragraph.(page 6, Para 98). Advertiser profile/**Keyword profile** may refer to the keywords or phrases that may be specified by the advertiser, corresponding to the given advertisement. (Page 6, Para 108);The targeting algorithm may include .... Search referral query, if available, for the **current visit to the given web page**.One or more past search referral queries, if available, associated with the current visitor. Publisher profile [which contains key word relevance]...**Advertiser bid price; Click-through rate (CTR)** of a particular ad on a particular web page. **Conversion Rate (CR)** of a particular ad on a particular web page.(Page 6, Para 81-94). Examiner holds that through this process, advertisements are prioritized and selected based on a combination at least of key word relevance and highest revenue generation potential indicating a productivity value using keyword relevance.

Claim 23, Jha discloses Publisher may refer to an entity that creates and publishes web pages with content, often with the purpose of **generating revenues** off the traffic to the pages.(Page 10, Para 173).

Claim 25, Jha discloses different **types** of Advertisements. Advertisement or ad may refer to any piece of text, image, audio, video, or any combination of these. In one

embodiment, advertisement may be displayed alongside a web page in the same browser window, or in another browser window as a pop-up, pop-over, pop-off, pop-under, etc.(Page 9, Para 147).

Claim 26, Jha discloses (1b) Publisher profile/content profile/Auto **Category** may refer to the **category** of the web page content, as may be determined by a specialized "auto-categorization" program. (1c) Publisher profile/content profile/Manual **Category** may refer to the **category** of the web page content, as specified by a human. (Page 6, Para 99-100).

### ***Response to Arguments***

Arguments dated 1/27/2010 have been noted but are considered non persuasive. Jha speaks to an ad targeting algorithm that includes relevance weighting inside the publisher profile/content profile/Term Collection as well as the Advertiser profile/Keyword profile, current and past search queries. The algorithm takes relevant advertisements and prioritizes them based on relevance and productivity factors such as revenue generating potential among other criteria

Applicant argues that Jha does not select ads using relevancy calculated with productivity. Paragraph 81-94 lists targeting criteria, Paragraph 98 goes into detail of what is included in Publisher profile of paragraph 85. Detail of Para 98 includes word relevancy in the document, therefore Jha calculates the productivity value (targets) using the relevancy score.

***Conclusion***

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen Hoar whose telephone number is (571)270-3447. The examiner can normally be reached on Monday- Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey D. Carlson/  
Primary Examiner, Art Unit 3622

Colleen Hoar  
Examiner  
Art Unit 3622

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